

SBCivil Writ Petition No.1367/2003

Omprakash
Vs.
State of Rajasthan & Anr.

Date of Order :: 12th July, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Kuldeep Mathur, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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The petitioner is a member of Rajasthan Police Subordinate Service created under the Rajasthan Police Subordinate Service Rules, 1989 (hereinafter referred to as "the Rules of 1989"). By an order dated 6.9.2002 the respondents awarded pay scale of Rs.5000-150-8000 to the petitioner as third selection scale under the Government of Rajasthan's notification dated 25.1.1992 on completion of 27 years of service. The petitioner claimed for pay scale of Rs.5500-9000 in place of Rs.5000-8000 being the pay scale of next higher post i.e. of Sub Inspector. No action was taken by the respondents on the representations submitted by the petitioner claiming for the pay scale of Rs.5500-9000, hence this petition for writ is preferred.

It is contended on behalf of the petitioner that under the notification dated 25.1.1992 the pay scale applicable for next higher/promotional post is

required to be given as selection grade on completion of 9, 18 and 27 years of service, as the case may be, but the respondents allowed pay scale of Rs.5000-8000 to the petitioner by order dated 6.9.2002 whereas the pay scale of next higher post is of Rs.5500-9000. It is also asserted that there are number of other persons similarly situated to whom the pay scale of Rs.5500-9000 is given by the respondents as selection grade.

A reply to the writ petition has been filed on behalf of the respondents stating therein that the pay scale of Rs.5500-9000 is applicable to the Sub Inspectors of Rajasthan Police other than the wireless wing. It is also stated that Financial Adviser, Police Headquarters, Government of Rajasthan, Jaipur by a communication dated 24.4.2001 conveyed to the Director, Police (Wireless) that the issue with regard to grant of selection grades to the police personnels belonging to wireless wing be postponed till further orders as the issue with regard to amendment in their pay scales is pending before the government.

With the consent of counsel for the parties the writ petition is finally heard at admission stage.

The petitioner is admittedly a member of Rajasthan Police Subordinate Service and is working in its wireless wing. Under the Rules of 1989 the

wireless wing is separate than civil police and the Rajasthan Armed Constabulary, however, under the Rajasthan Civil Services (Revised Pay) Rules, 1998 (hereinafter referred to as "the Rules of 1998") there is no distinction with regard to grant of pay scales to the employees of wireless wing of the Rajasthan Police. Under the Rules of 1998 the pay scales are prescribed for the post of Constable, Head Constable and Sub Inspector. No classification according to the wings is made thereunder. A Constable under the Rules of 1998 is entitled for pay scale No.6 i.e. of Rs.3050-4590 and Head Constable and Sub Inspector are entitled for pay scale of Rs.3200-4900 and Rs.5500-9000 respectively. When the pay rules does not make any difference among the members of Rajasthan Police Subordinate Service on basis of their wing with regard to grant of pay scales, the respondents by their administrative decision cannot deny the statutory pay scale to the members of Rajasthan Police Subordinate Service (Wireless wing). In view of it the decision of the respondents for not awarding pay scale of Rs.5500-9000 to the petitioner on the count that he is in wireless wing of Rajasthan Police Subordinate Service is absolutely illegal. It is also pertinent to note that the respondents admittedly allowed pay scale of Rs.5500-9000 to number of other police personnels of wireless wing under the order Anx.5 dated 24.9.2002. The non grant of pay scale of Rs.5500-9000, therefore, is also a case of discrimination.

Accordingly, this petition for writ succeeds and, therefore, the same is allowed. The order dated 6.9.2002 is declared illegal to the extent it awards pay scale of Rs.5000-8000 to the petitioner as selection grade on completion of 27 years of service. The respondents are directed to allow the pay scale of Rs.5500-9000 to the petitioner on completion of 27 years of satisfactory service. The petitioner shall be entitled for all consequential benefits as a consequence to grant of pay scale of Rs.5500-9000 on completion of 27 years of service.

No order to cost.

(GOVIND MATHUR),J.

kkm/ps.